

## Environmental Protection Agency

## § 125.135

and § 125.136(b) as part of your application.

(7) You must implement the monitoring requirements specified in § 125.137; and

(8) You must implement the record-keeping requirements specified in § 125.138.

(c) *Track II requirements for new offshore oil and gas extraction facilities.* The owner or operator of a new offshore oil and gas extraction facility that is a fixed facility and chooses to comply under Track II must comply with the following requirements:

(1) You must demonstrate to the Director that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the applicable requirements of paragraph (b)(2) and, if your facility is a fixed facility without a sea chest, also paragraph (b)(5) of this section. This demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, will be comparable to those which would result if you were to implement the requirements of paragraph (b)(2) and, if your facility is a fixed facility without a sea chest, also paragraph (b)(5) of this section. In identifying such species, the Director may consider information provided by any fishery management agency(ies) along with data and information from other sources;

(2) For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

(3) You must submit the applicable information required in 40 CFR 122.21(r)(2) (except (r)(2)(iv)), (3) and (4) and § 125.136(c);

(4) You must implement the monitoring requirements specified in § 125.137;

(5) You must implement the record-keeping requirements specified in § 125.138.

(d) You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new offshore oil and gas extraction facility that the Director deems are reasonably necessary to comply with any provision of federal or state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

### § 125.135 May alternative requirements be authorized?

(a) Any interested person may request that alternative requirements less stringent than those specified in § 125.134(a) through (d) be imposed in the permit. The Director may establish alternative requirements less stringent than the requirements of § 125.134(a) through (d) only if:

(1) There is an applicable requirement under § 125.134(a) through (d);

(2) The Director determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to the costs EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on energy markets;

(3) The alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on energy markets; and

(4) The alternative requirement will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirement of federal or state law.

(b) The burden is on the person requesting the alternative requirement to demonstrate that alternative requirements should be authorized.